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Attorneys for Defendants  
State of California by and through California  
Highway Patrol and Officer Ramon Silva

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

SANDRA KIRKMAN AND  
CARLOS ALANIZ,  
INDIVIDUALLY AND AS  
SUCCESSORS-IN-INTEREST TO  
JOHN ALANIZ, DECEASED,

Plaintiff,

v.

STATE OF CALIFORNIA;  
RAMON SILVA; AND DOES 1-10,  
INCLUSIVE,

Defendant.

Case No.: 2:23-cv-07532-DMG-SSC

**DECLARATION OF LEE H.  
ROISTACHER IN SUPPORT OF  
DEFENDANTS' EX PARTE  
APPLICATION FOR AN ORDER  
HEARING DEFENDANTS'  
MOTION TO STAY PENDING  
APPEAL ON AN EXPEDITED  
BASIS**

Courtroom: 8C  
Judge: Hon. Dolly M. Gee

FPTC Date: March 25, 2025  
Trial Date: April 15, 2025

I, Lee H. Roistacher, hereby declare as follows:

1. I am an attorney licensed to practice law in the State of California. I am also a partner in the law firm of Dean Gazzo Roistacher, LLP, attorneys of record for defendants State of California by and through California Highway Patrol and Officer Ramon Silva in this matter. I have personal knowledge of the following facts, and if called to testify with respect thereto, would do so competently.

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1           2.     Plaintiffs' counsel is:

2                                 Cooper Allison-Mayne  
3                                 Law Offices of Dale Galipo  
4                                 21800 Burbank Boulevard, Suite 310,  
5                                 Woodland Hills, CA 91367,  
6                                 818-347-3333  
7                                 cmayne@galipolaw.com)

8           3.     Counsel have met and conferred. Counsel is aware of this ex parte  
9 application and does not object to defendants' motion to stay the case pending  
10 appeal being heard on an expedited basis.

11           4.     After this Court issued its order denying defendant Ramon Silva  
12 qualified immunity on plaintiffs' 42 U.S.C. § 1983 claim asserting excessive  
13 force, Silva filed a notice of appeal. Docs. 75 (order), 75 (notice of appeal). The  
14 final pretrial conference is set for March 25, 2025. Trial is currently set for April  
15 15, 2025.

16           5.     Counsel have met and conferred regarding the impact the notice of  
17 appeal has on this case. Counsel have discussed defendants' position that the  
18 filing of the notice of appeal automatically divests this Court of jurisdiction over  
19 the claims being appealed and further discussed defendants' motion to stay the  
20 entire case pending resolution of the appeal. Counsel have also discussed  
21 plaintiffs' position that the Court maintains jurisdiction because the appeal is  
22 frivolous and further discussed plaintiffs' motion to deem the appeal frivolous  
23 under *Chuman v. Wright*, 960 F.2d 104 (9th Cir. 1992), and plaintiffs will  
24 likewise be moving ex parte for an expedited hearing and briefing schedule to  
25 which defendants do not object.

26           6.     With the March 25, 2025 final pretrial conference and the April 15,  
27 2025 trial date, the motion could not be heard on regular notice before the final  
28 pretrial conference and the issuance of the pretrial conference order. And with

1 the earliest motion hearing date on regular notice from today being April 11,  
2 2025, that would be just four days before the April 15, 2025 trial date. The need  
3 for an expedited briefing and hearing schedule occurred through no fault of the  
4 parties, as the summary judgment motion was timely filed and the notice of  
5 appeal immediately filed after the Court issued its order. The parties agree  
6 expedited resolution of the issues is paramount as they materially impact how  
7 this case proceeds, if it proceeds at all.

8 7. The parties will oppose each other's substantive motions. The  
9 parties have agreed to file opposition by March 19, 2025 and will forgo replies.  
10 Defendants request the Court set a hearing date on March 25, 2025 at 2:00 p.m.  
11 to coincide with the final pretrial conference, or some other earlier date if the  
12 Court is inclined and available.

13 I declare under penalty of perjury under the laws of the United States of  
14 America that the foregoing is true and correct.  
15 Executed on March 12, 2025.

16  
17 /s/ Lee H. Roistacher  
18 Lee H. Roistacher, declarant  
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